IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Chapter VIII, Rule 32(2) (b)
Description of Case

Appeal from Order No. 166 of 2006

Date of decision :- 2nd August, 2006

A.F.R. (Approved for Reporting)

~~Not approved for reporting~~

Date :-2.8.2006 Initials of Judge

Note :- Bench Reader will attach this at the top of the first page of the judgment when it is put up before the Judge for signature.

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Appeal From Order No. 166 of 2006.

Jaswant Singh Bisht s/o Sri Kundan Singh Bisht,
R/o Mohalla – Lakhanpur, Ramnagar,
Tehsil – Ramnagar, Distt. Nainital ….. Appellant

Versus

1. Smt. Nazma Begum w/o Late Sri Mohammad Kamar,
   R/o Shankarpurmul, Adarsh Nagar,
   Ramnagar, District Nainital.
2. United India Insurance Company Limited
   through its Divisional Manager,
   Divisional Office, Haldwani,
   District Nainital …….. Respondents

JUDGMENT

Coram: Hon'ble Rajeev Gupta, C.J.
Hon'ble J.C.S. Rawat, J.

RAJEEV GUPTA, C.J. (Oral)

Sri Sudhir Singh, Advocate for the appellant is heard on admission.

2. This is owner's appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the award dated 22.12.2005 passed by Motor accident Claims Tribunal, Haldwani, District Nainital, whereby second respondent – United India Insurance Company Limited was directed to pay a sum of Rs.3,67,000/- (Rupees Three Lakh Sixty Seven Thousand only) as compensation to the claimants and to recover the same from the owner of the offending vehicle i.e. appellant Jaswant Singh Bisht.

3. From the impugned Award, we gather that the Tribunal exonerated the Insurance Company from its liability to pay the compensation on the ground that the cheque given by the appellant (owner of the bus) towards the premium was dishonoured by the Bank and as such the Insurance Company did not receive any premium for insurance of the appellant's vehicle.

4. Sri Sudhir Singh, the learned counsel for the appellant though advanced several submission on other aspects of the matter, but could not

demonstrate that the appellant, in fact, paid any premium to the Insurance Company after the dishonour of his cheque by the Bank. In the absence of payment of premium by the owner of the vehicle to the Insurance Company, the Insurance Company cannot be held liable to pay compensation to the claimant.

5. In this view of the matter, we do not find any infirmity in the finding recorded by the Tribunal exonerating the Insurance Company from its liability to pay the compensation to the claimant and holding the appellant (owner of the offending vehicle-bus) solely liable to pay the compensation to the claimant.

6. Sri Sudhir Singh, the learned counsel for the appellant then challenged the quantum of the compensation assessed by the Tribunal. From the impugned Award, we gather that though the claimant pleaded that her deceased husband used to earn Rs. 6000-7000/- per month, but the Tribunal assessed his income on, its own estimate, at Rs. 3000/- per month only. The Tribunal has rightly assessed the claimant's dependency at Rs.24,000/- per annum. The multiplier of 15 selected by the Tribunal also cannot be found fault with as the Second Schedule u/s 163-A of the Motor Vehicles Act, 1988 prescribes the multiplier of 15 for the age group between 40-45 years.

7. Thus, the compensation of Rs. 3,67,000/- assessed by the Tribunal cannot be termed as excessive.

8. For the foregoing reasons, the appeal filed by the owner of the offending vehicle is liable to be dismissed and is hereby dismissed summarily.

(J.C.S. Rawat, J.) **(Rajeev Gupta, C.J.)**
02.08.2006 02.08.2006

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